

Administration

Employee
Responsibilities

Integrity in Research

POLICY:

- .01 The Los Alamos National Laboratory seeks to foster and maintain the highest ethical standards in research. All those engaged in research at Los Alamos are responsible for sustaining the highest degree of intellectual honesty and integrity in these activities. The Laboratory responds immediately to any allegation of scientific misconduct in accordance with the policy described below.

DEFINITIONS:**Misconduct**

- .02 Misconduct includes fabrication, falsification, plagiarism, or other practices that seriously and adversely deviate from those that are commonly accepted in the scientific community for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretations or judgments of data. Review of misconduct includes an inquiry and possibly a formal review.

Respondent

- .03 The respondent is the employee against whom an allegation of misconduct has been made.

Complaint

- .04 The complainant is the individual who reports an apparent instance of misconduct.

Inquiry

- .05 An inquiry is an information-gathering process, an initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants a formal review.

Formal Review

- .06 A formal review is a formal examination and evaluation of all relevant facts to determine if misconduct has occurred.

DSTBP

- .07 The Director for Science and Technology Base Programs (DSTBP) is the division-level manager appointed by the Director to oversee the investigation of allegations of misconduct as defined in this policy.

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- Granting Agency** .08 The granting agency is an external organization that has provided funding for Laboratory research, including the Department of Energy (DOE). If a granting agency has requirements in addition to those stated in this policy, the Laboratory organization using the agency's funding must be cognizant of and comply with those requirements.

REPORTING MISCONDUCT:

- Complainant** .09 A person with knowledge of or information about an apparent instance of misconduct must report the instance to his or her division-level manager; if the person is not a Laboratory employee, he or she should report the apparent misconduct to the division-level manager of the respondent. Although this first report may take place in an informal meeting, it is recommended that the complainant subsequently send to the cognizant division-level manager a memo that explains the details of the instance.
- NOTE:** If the division-level manager is or appears to be involved in the alleged misconduct, the complainant approaches the next higher manager who does not appear to be involved in the misconduct.
- .10 The privacy of those who, in good faith, report apparent misconduct is protected to the maximum extent consistent with the fair conduct of inquiries and formal reviews. However, cases that depend specifically on the observations or statements of the complainant cannot proceed without the open involvement of that individual.
- .11 No complainant who has made a good-faith allegation of misconduct is subject to reprisal or retaliation. A complainant who knowingly makes a false allegation of misconduct is subject to disciplinary action up to and including termination according to applicable Laboratory policies and procedures. (See [AM 112](#), *Discipline Policy and Procedures*.)

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- Division-Level Manager** .12 After becoming aware of the apparent instance of misconduct or upon receipt of the complainant's memo, if the respondent is in the same program/division, the division-level manager informs the respondent of the allegation and, only when necessary, of the identity of the complainant. If the respondent is in a different program/division, the complainant's manager informs the respondent's division-level manager, who then informs the respondent of the allegation and, only when necessary, the identity of the complainant. Within 30 calendar days of receiving the memo or becoming aware of the apparent misconduct, the division-level manager sends a copy of the memo or a summary of the alleged misconduct to the DSTBP with a recommendation for further examination of the situation or an explanation of why the matter should not be pursued.
- DSTBP Action** .13 The DSTBP has 30 calendar days to consider the information in the 2 memos and to initiate the appropriate action. *See .16-.18.*
- NOTE:* If the respondent is in the DSTBP's organization, the Laboratory Director assigns responsibility for the investigation to another uninvolved division-level manager.
- RESPONDENT:** .14 The respondent receives confidential treatment to the maximum extent possible, a prompt and thorough inquiry and formal review (if determined to be warranted), and notice of, and an opportunity to comment on, reported allegations and the findings of any inquiry or formal review.
- REPRESENTATION:** .15 All parties to the formal review have the right to be represented, at their own expense, at any stage of an inquiry or formal review.
- NO MISCONDUCT:** .16 If, after reading the memos from the division-level manager and the complainant, the DSTBP finds the report groundless and without sufficient cause to warrant inquiry or formal review, he or she documents his or her findings in a memo for the file. The respondent, the complainant, and their

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division-level manager(s) are informed of the DSTBP's findings. *See also* .33.

INITIAL INQUIRY:

- .17 The initial inquiry follows the DSTBP's determination that further inquiry is warranted. It is not a formal hearing. The initial inquiry is designed to separate allegations deserving further examination from frivolous, unjustified, or clearly mistaken allegations.

NOTE: It is the DSTBP's responsibility to take any interim administrative actions, as appropriate, to protect federal funds and to ensure that the purposes of the funding are carried out.

Inquiry Initiated

- .18 If the DSTBP decides the memos present grounds for further examination, he or she immediately appoints one or more individuals with the appropriate expertise to make a fair and objective examination of the allegations or other evidence of misconduct. Individuals to conduct the inquiry are selected to avoid real or apparent conflicts of interest as determined by the DSTBP.

Notifications

- .19 **Involved Parties** — The DSTBP notifies the complainant, the respondent, and their division-level manager(s) that the inquiry has been initiated; the notification includes the name(s) of the investigator(s), the nature of the complaint, and the procedure the inquiry will follow. The respondent may respond to the allegation and may provide evidence on his or her own behalf.
- .20 **Other Internal and External Notifications** — If the individuals conducting the inquiry become aware of any of the following conditions at any point during the inquiry, the DSTBP notifies the Environment, Safety and Health Division (ESH), the Controller in the Business Operations Division (BUS), the Employee Relations Group (HR-2 ER) in the Human Resources Division, Public Affairs (PA), the Facilities, Security, and Safeguards Division (FSS), the Internal Evaluation Office (IEO), or Laboratory Counsel (LC), the granting agency, and the Office of Research Integrity as appropriate or required:

An immediate health hazard;

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An immediate need to protect federal funds or equipment;

An immediate need to protect the interests of the complainant or respondent and co-investigators or colleagues;

Probability that the incident will be reported publicly; or

A reasonable indication of possible criminal activity or an allegation of fraud, waste, or abuse.

NOTE: The notification must take place within the appropriate time limit if possible criminal activity is detected (within 24 hours) or after an allegation of fraud, waste, or abuse is first made (within 5 working days).

Length of Inquiry

- .21 There is a 60-calendar-day limit for completing the inquiry, including writing and submitting the report described in .22 below, unless circumstances clearly warrant a longer period. If the inquiry takes longer, the DSTBP must document the reasons for exceeding the 60-day period.

Report

- .22 The individuals who carry out the inquiry prepare a written report that states what evidence was reviewed, summarizes relevant interviews, and includes the conclusions of the inquiry with a recommendation whether a formal review should be conducted. The respondent, the complainant, and their division-level manager(s) receive a copy of the report. The respondent has 10 working days to comment in writing on its contents; any comments become part of the record.

No Investigation

- .23 **Records Retention** — If the investigator(s) determine(s) that a formal review is not warranted, the documentation for this decision must be maintained in the DSTBP files for at least 3 years and is available for review by the granting agency and the Office of Research Integrity. If the formal review is undertaken, the DSTBP must make the records of the inquiry available to the members of the review committee.

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FORMAL REVIEW:

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| Committee | .24 | If the DSTBP determines that the findings of an inquiry provide sufficient basis for conducting a formal review, he or she appoints, within 30 calendar days of the completion of the inquiry, a committee of 3 persons with the appropriate expertise to carry out a thorough and authoritative evaluation of relevant evidence in a prompt and fair manner. Individuals who participated in the initial inquiry may not become committee members. Committee members are selected to avoid any real or apparent conflict of interest. If the granting agency or the Office of Research Integrity requires notice of the initiation of an investigation, the DSTBP notifies them on or before the date the investigation begins. |
| Length of Investigation | .25 | <p>The committee should complete the following activities within 120 calendar days after the initiation of the formal review: conducting the formal review, preparing the report, making the report available for comment by the respondent, and submitting the report to the DSTBP.</p> <p>NOTE: If the committee is unable to complete the investigation within the 120-day time period, the committee must request an extension explaining the need for the delay and including an interim report of progress to date, an outline of what remains to be done, and an estimated date of completion. If the granting agency or the Office of Research Integrity requires notice of the delay, the DSTBP carries out this notification.</p> |
| DSTBP's Role | .26 | The DSTBP retains administrative oversight responsibilities for the committee and its activities. |
| Early Closure | .27 | If, for any reason, the inquiry or the investigation is closed before all required activities are completed, the DSTBP must prepare a report documenting the reasons for terminating the effort. If required, the DSTBP forwards a copy of the early termination report to the granting agency and the Office of Research Integrity. |

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Notification

- .28 Whether or not a formal review is warranted, the DSTBP notifies ESH, the Controller, PA, HR-2 ER, FSS, IEO, or LC, the granting agency, and the Office of Research Integrity as appropriate or required, if any of the following conditions are believed to exist:

An immediate health hazard;

An immediate need to protect federal funds or equipment;

An immediate need to protect the interests of the complainant or respondent and co-investigators or associates;

Probability that the incident will be reported publicly; or

A reasonable indication of possible criminal activity or an allegation of fraud, waste, or abuse.

NOTE: Notification to IEO, the granting agency, and the Office of Research Integrity must take place within the appropriate time limit if possible criminal activity is detected (within 24 hours) or after the committee becomes aware of an allegation of fraud, waste, or abuse (within 5 working days). IEO advises the DOE Office of the Inspector General (OIG), the authorized agency to investigate such activities. If the criminal activity or the fraud, waste, or abuse is incidental to the originally reported misconduct, IEO determines whether the inquiry/formal review should go forward. However, a criminal investigation takes precedence over the administrative investigation described here.

Report

- .29 The committee submits a written report to the DSTBP that

States what evidence was reviewed;

Summarizes relevant interviews;

Presents findings—whether the respondent engaged in misconduct; and

Recommends what action, if any, is appropriate under the circumstances.

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The respondent, the complainant, and their division-level manager(s) receive copies of the review report, and the respondent has an opportunity to provide written comments within 10 working days; these comments become part of the record.

Protection of Federal Funds

- .30 Interim administrative actions, as appropriate, are undertaken to protect federal funds and to ensure that the purposes of the federal financial assistance are carried out. The DSTBP notifies the granting agency of any disclosures during the course of the formal review that may affect current or potential funding for the individual under review or that the agency needs to know to ensure appropriate use of federal funds.

Findings

- .31 ***No Evidence of Misconduct*** — If the committee determines that the allegations are not supported by evidence, the DSTBP notifies all parties of the findings.
- .32 ***Misconduct*** — The DSTBP notifies all parties of the findings. When the committee's report of the results of the formal review substantiates an allegation of misconduct, the respondent's division-level manager examines the committee's recommendation and decides whether discipline is appropriate. If the committee's report indicates that the division-level manager or any higher-level manager is involved in the misconduct, the report is submitted to the next higher-level manager who is not involved in the misconduct. The uninvolved manager then decides whether discipline is appropriate.

Restoration of Reputation

- .33 If, as the result of an inquiry or investigation conducted as described in this policy, the allegations of misconduct made against the respondent are not confirmed, diligent efforts are made to restore the reputation of that individual. DSTBP will develop an appropriate plan of action. The respondent can provide input; however, the final decision on the nature of the plan rests with DSTBP.

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| Discipline | .34 | If discipline is initiated, the manager contacts HR-2 ER and follows the provisions of AM 112.

<i>NOTE:</i> HR-2 ER accepts the facts as presented in the committee report and does not conduct an independent review. |
| No Discipline | .35 | If discipline is not initiated, the respondent's division-level manager documents the reasons in a memo to the DSTBP. |
| Final Report | .36 | The DSTBP submits, within 30 days of the respondent's division-level manager's decision, a final report to the granting agency describing the policies and procedures used to conduct the formal review, how and from whom information was obtained, the findings, the basis for the findings, any disciplinary action taken by the Laboratory, and the views of any individual found to have engaged in misconduct. |
| | .37 | Retention — Documentation supporting the final report is retained in DSTBP files indefinitely and will be made available if the granting agency or the Director of the Office of Research Integrity requests. |